

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RICHARD E. KAPLAN,

Plaintiff,

v.

FIRST HARTFORD CORPORATION,

Defendant.

Civil Action No. 04-10402-NMG

RICHARD E. KAPLAN,

Plaintiff,

v.

FIRST HARTFORD CORPORATION,

Defendant.

Civil Action No. 05-10320-NMG

**PLAINTIFF'S OPPOSITION TO
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

The plaintiff Richard E. Kaplan ("Kaplan") hereby opposes the defendant First Hartford Corporation's ("FHC") Motion for Summary Judgment on the following grounds:

(i) FHC has failed to serve a concise statement of the material facts of record as to which it contends, as the party moving for summary judgment, there is no genuine issue to be tried. *See* L.R. 56.1. "Failure to include such a statement constitutes grounds for denial of the motion." *Id.*

(ii) Kaplan's claims in these proxy fraud cases have not been rendered moot since the inception of this litigation. The Proxy Statement distributed by FHC to shareholders in October

2005 in connection with the November 30, 2005 Annual Meeting of Shareholders did not remedy the alleged inaccuracies of FHC's earlier proxy statements, and has not made it impossible for this Court to give effectual relief to Kaplan in these proxy fraud cases. Moreover, on March 9, 2006, Kaplan filed a third proxy fraud case (C.A. No. 06-10424-NMG) challenging the October 2005 Proxy Statement and the actions taken at the November 30, 2005 Meeting.

Pursuant to L.R. 7.1(B)(2), and in support of this opposition, the plaintiff files the accompanying memorandum of law and exhibits.

Accordingly, Kaplan respectfully requests that this Court deny FHC's motion for summary judgment, and award Kaplan such other and further relief as may be just and proper in the circumstances.

Respectfully submitted,

RICHARD E. KAPLAN,
Plaintiff,

By his attorneys,

/s/ Larry C. Kenna

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